

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VERDI BLACKWOOD,	:	Civil No. 1:18-cv-1168
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
TESIA NADINE POYSER and	:	
LURISE POYSER,	:	
	:	
Defendants.	:	Judge Sylvia H. Rambo

MEMORANDUM

Before the court is an amended complaint in which the cause of action lies in 42 U.S.C. § 1983. Courts have an independent obligation to determine whether subject matter jurisdiction exists even in the absence of a challenge from any party. *Ruhrgas v. Marathon Oil Company*, 526 U.S. 574, 583 (1999); *see also* Fed. R. Civ. P. 12(h)(3). A review of the complaint in this case fails to establish subject matter jurisdiction in the federal court.

An action filed pursuant to 42 U.S.C. § 1983 requires that the person alleged to have violated a plaintiff's constitutional rights be acting under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). Section 1983 provides a remedy against all forms of official violation of federally protected rights. However, "[m]erely calling the police, furnishing information to the police or communicating with a state official does not . . . transform a private entity into a state actor." *Dickerson v. Desimone*, 2011 WL 3273228, *3 (E.D. Pa. Aug. 1, 2011) (quoting *Lawson v. Rite*

Aid, 2006 WL 2136098 (E.D. Pa. July 26, 2006)). The defendants in this action are private citizens. Thus, the complaint will be dismissed as to the alleged federal claim.

To the extent that Plaintiff is alleging a state law claim of malicious prosecution, that claim will also be dismissed. 28 U.S.C. § 1367(c)(4) provides that the court may decline to exercise supplemental jurisdiction over a claim “in exceptional circumstances [where] there are other compelling reasons for declining jurisdiction.” The exceptional circumstance here is that this court does not have jurisdiction over a properly pleaded federal cause of action and judicial economy would not be promoted by retaining a state law cause of action.

An appropriate order will issue.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: June 18, 2018